

2011 GENERAL ASSEMBLY HIGHLIGHTS



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Planning District Commission

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Representing the Local Governments of:

**Albemarle County
City of Charlottesville
Fluvanna County
Greene County
Louisa County
Nelson County**

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BUDGET SUMMARY

Overview

The General Assembly adjourned the 2011 legislative session one day late, after approving changes to the FY11/FY12 state spending plan. Senior lawmakers crafting changes to the current, two-year state budget needed until the early hours of Sunday morning to reach a compromise. The proposed, compromise amendments then were made available early Sunday afternoon, giving legislators only a matter of hours for review before voting on some 400 changes to the plan that had been introduced in December by Governor McDonnell.

BUDGET PRIORITIES

Chesapeake Bay TMDL/ Environment

The approved budget directs that \$4.9 million of the \$32.8 million deposit to the Water Quality Improvement Fund (WQIF) be placed in reserve, and that \$27.9 million of that go to the Natural Resources Commitment subfund for implementing agricultural best management practices (BMP). It provides an additional \$1 million for Soil and Water Conservation Districts, and directs the Department of Environmental Quality (DEQ) to use up to \$3 million from the WQIF to conduct the James River chlorophyll study pursuant to the approved Phase I Watershed Implementation Plan (WIP). The budget does not include significant funds to reimburse localities for wastewater treatment plant upgrades, as had been proposed by the Senate.

The spending plan restores \$700,000 in FY12 that was reduced in previous budgets for the Purchase of Development Rights program in the Office of Farmland Preservation, while eliminating a proposed \$1 million addition for the Virginia Land Conservation Fund.

A language amendment requires the Department of Conservation and Recreation (DCR) to report (by November) on the use of agricultural BMP on acres farmed and type of farming operation, by region and by the types of additional BMP that would be required to achieve nutrient and sediment reductions proposed in the WIP.

Additional budget language directs a review of expanding the reuse of wastewater with the goal of reducing nutrient pollution in state waters. The review is to utilize stakeholders and an examination of practices in other states that have developed policies and programs to reduce surface water discharges. Recommendations are due by October.

Public Education

The approved spending plan contains a net increase of \$75.6 million in FY12 over the introduced budget for public education. This includes funding to “make whole” localities affected by the proposal to seize all composite index “hold harmless” funding as contained in the introduced budget. This initiative is funded by dollars earmarked for the state’s share of an additional \$130/pupil, along with an additional \$16.6 million (\$14.6 million in general funds and \$2 million from the Lottery Proceeds Fund made possible by a like reduction in state support for the Virginia Preschool Initiative). Language stipulates that the payment is to be one-time only and not part of base expenditures for the calculating education costs in the FY12-14 biennial budget.

Textbook funding is reduced by nearly \$6 million in FY12, dropping the per pupil amount from \$48 to \$40. Language is included that authorizes textbook payments to be suspended in cases of a shortfall in lottery revenues. The budget also includes \$3 million in FY12 for a pilot pay-for-performance program, with grants to be awarded to certain divisions to pay for personnel in hard-to-staff schools.

A language amendment allows school divisions to carry over any unspent state funds from FY12 to FY13, provided that the division has meet required local effort.

Health and Human Services

Concerning the Comprehensive Services Act (CSA), the approved budget includes \$5 million for services to non-mandated seriously emotionally disturbed children and \$7.5 million for therapeutic foster care services to restore reductions contained in the introduced budget. It reduces the state share of funding for supplemental CSA services beyond the base pool allocations by \$1 million in FY11 and \$5 million in FY12. Language directs the development of guidelines (utilizing stakeholder input) to assist localities in better managing the care and costs of therapeutic foster care services and the use of regional contracts to help control costs. The state is to provide training about these guidelines for localities and providers.

Other language amendments require: 1) annual reports from the Office of Comprehensive Services on the use and cost of therapeutic foster care and special education services; and 2) the State Executive Council to develop a plan to serve children eligible for CSA in the least restrictive setting with appropriate non-educational supportive services. Such plan must be developed with stakeholders and include guidelines for providing non-IEP services, and training to localities on providing services in home-based and public school settings.

The budget does not include the House plan to save more than \$43 million by requiring that Medicaid-funded children's mental health rehabilitative services be subject to CSA provisions, thus saving the state money by sharing service costs with localities. However, it requires the Department of Medical Assistance Services to develop five regional pilot programs in coordination with community services boards to improve care, utilization, outcomes and cost effectiveness of community mental health rehabilitative services for children enrolled in the Medicaid or FAMIS programs. Additional budget language defines and refines provisions related to care coordination for individuals needing behavioral health services. It requires development of a blueprint for care coordination services in consultation with stakeholders. Such plan is to include details on funding, populations served, services provided, time frame for program implementation, and education of consumers and providers.

The spending plan restores \$2.9 million in general funds and \$4.1 million in matching federal funds in FY12 to local social services departments (this amount represents one-half of the reductions taken in the 2010 session). It targets \$30 million in FY12 for the Behavioral Health Services and Developmental Services Trust Fund, to transition individuals from state training centers to community-based settings. It provides \$50.6 million in general and federal Medicaid matching funds to restore funding for Medicaid service providers. Action taken in 2010 reduced rates for inpatient hospital services, physician and dental services, in FY12 by 4%. It restores \$500,000 from federal TANF funds in FY12 to the following: Comprehensive Health Investment Project (CHIP) of Virginia; Healthy Families Virginia; and to community action agencies. Another amendment restores \$225,000 in general funds in FY12 to the Virginia Early Childhood Foundation.

Budget language requires the Secretary of Health and Human Resources to work with state and local human services agencies, as well as meal delivery providers, to examine the provision of home delivered meal services for home-bound individuals, and how programs and resources could be better coordinated to maximize services and reduce duplication.

Transportation

The budget assumes that state transportation taxes and fees will grow by an additional \$158 million over the remainder of the biennium compared to the forecast adopted last spring. It includes \$32.7 million from the general fund (the statutory amount required by the Virginia Transportation Act of 2007) and \$250 million of existing Virginia Department of Transportation (VDOT) revenues to capitalize the Virginia Transportation Infrastructure Bank (VTIB). The Secretary of Transportation must certify any specific project or program balance to be transferred to the bank, as well as the corresponding fund source. Budget language authorizes the Commonwealth Transportation Board (CTB) to increase the current \$50 million cap on the

VDOT revenue sharing program to \$200 million (see HB 2527 and SB 1446, which contain specific provisions of the transportation package submitted by the governor).

Language in the introduced budget allowing the Comptroller to appropriate undesignated year-end general fund balances to transportation at the close of the fiscal year is eliminated.

The budget also provides \$150,000 to the City of Roanoke for a demonstration project to provide a "bus-bridge" connection service between Roanoke and the daily Northeast Corridor passenger rail service originating in Lynchburg and passing through Charlottesville. Additional language amendments specify that 1) no mass transit funds may be used for any purpose not included in the uses of those funds as stipulated in state Code or defined by the Federal Transit Administration; and 2) the Department of Motor Vehicles (DMV) conduct a comprehensive review of DMV customer service centers and DMV Select locations, prior to making any changes to the operations of the Select programs.

Public Safety

The budget provides an additional \$3 million in FY12 for sheriffs and \$3 million for local court services. This is in addition to provisions in the introduced budget that provided an \$8.3 million restoration of previous reductions for both FY11 and FY12.

It provides an additional \$6.1 million in FY11 for jail per diems to reflect the population of local-responsible offenders housed in local and regional jails. This is a reduction of \$1.3 million from the introduced budget (the reduction is \$728,000 for local jails and \$572,000 for regional jails). State per diem funding for local jails stands at just over \$33 million and is nearly \$20.5 million for regional jails.

The spending plan partially restores HB 599 funding for localities with police departments so that the decrease in funding from the FY11 amount of \$178.7 million is 3.5%; thus, the FY12 amount will be \$172.4 million (the budget approved last year, as well as the introduced budget, included only \$160 million for FY12). The budget also restores \$800,000 for the Virginia Juvenile Community Crime Control Act (VJCCCA) and authorizes localities participating in VJCCCA to reduce their local match to an amount equal to, but not less than, the state allocation for this program. Language requires a report from the Department of Juvenile Justice (DJJ) on the types of programs supported by VJCCCA grants and whether youth in these programs are statistically less likely to be arrested, convicted or incarcerated for misdemeanors and crimes that would be felonies if committed by adults.

Budget language directs DJJ to prepare a report on the future of the state's juvenile corrections centers, examining utilization rates and options for closing a state-operated juvenile correctional center and reallocating the cost savings to transitional programs and reentry services in selected regional or local juvenile detention facilities in the 2012-14 biennium. Finally, another language amendment directs the Board of Corrections to report annually on the double-bunking capacity of regional and local jails, as well as the standard measure of rated capacity of such jails.

Miscellaneous budget provisions and budget language

Virginia Retirement System (VRS)—The retirement rate for teachers will increase by 2.4% over the employer retirement rates paid for FY11, from 3.93% in FY11 to 6.33% in FY12 (the 2010 General Assembly had adopted an FY12 rate of 5.16%). This will require an additional \$31 million in state funding, with additional local contributions of \$50 to \$60 million. State employees hired prior to July 1, 2010 will be required to pay the 5% employee share of retirement costs and will receive a 5% pay increase as an offset. No language is included to allow localities and school boards to reinstitute the 5% employee contribution for employees hired prior to July 1, 2010.

Line of Duty—The budget extends the deadline, from July 1, 2011 to July 1, 2012, for localities to opt out of the state program; local contributions (estimated at \$233 per full-time employee) into the program are to begin in FY12 and continue until such time as a locality opts out.

Virginia Cooperative Extension—The spending plan directs Virginia Cooperative Extension (VCE) to not implement the October 2010 restructuring plan. Any revision to the plan must strengthen VCE's historical mission regarding local delivery of research information to the agriculture industry, youth leadership development, and family and community viability, while including collaboration with stakeholders, including local governments and local agents. The Secretary of Education also is to evaluate and report (by November) on the advantages and disadvantages of the current organizational structure of VCE, conduct an evaluation of its operations and finances and determine appropriate reporting requirements. Finally, the budget provides an additional \$1 million and 25 extension agent positions in FY12 to VCE, to be matched by local governments.

* Budget language extends, from November 1, 2012, to November 1, 2013, the reporting date for a Joint Legislative Audit and Review Commission (JLARC) study (as directed by the introduced budget) of the Business, Professional, and Occupational Licensing (BPOL) tax.

* The budget provides \$232,869 in FY12 to restore a previous 15% reduction to Planning District Commissions.

* It provides an additional \$64 million for the Revenue Stabilization Fund to increase the reserve to \$114 million, or one-half of the \$228 million deposit that will be required during the next biennium.

* The spending plan includes language to limit the Compensation Board's retirement reimbursement cap for constitutional officers and their employees at no more than the FY11 state employee rate (2.13%). With a FY12 approved rate of 2.08% through March 2012, changing to 3.79% through June 2012, it appears that the Compensation Board will reimburse a maximum of 2.08% for July 2011 through March 2012, and a maximum of 2.13% for April through June 2012.

* Budget language directs the Auditor of Public Accounts to determine (by October) the extent to which localities are collecting fines on the basis of local ordinances which parallel state statutes.

* It includes \$1 million to capitalize the Virginia Removal or Rehabilitation of Derelict Structures Fund to support industrial site development, a reduction of \$3 million from the introduced plan. Up to \$2 million generated from surplus property sales that would otherwise revert to the general fund also could be used for the program. The budget also eliminates a proposed \$500,000 increase for the Main Street Program, whose current funding is \$139,000.

* The spending plan includes \$200,000 a new proposal to improve regional economic development efforts.

* Language directs the Department of General Services to solicit proposals for an enterprise-wide surplus material reuse, sale, and disposal services model, ultimately to include participation by state agencies and to be made available to local government entities.

* Language directs the Secretary of Finance to convene a work group to outline the format and content of an on-line budget summary, which would be available after each reconvened session.

* Language is included to override provisions that exempted the Department of Corrections from having to pay service charges in lieu of taxes to local governments until FY 2012. The proposed amendment provides the \$1.2 million to make the payments in the current fiscal year.

* The budget shifts all of the cost of liability and surety bond premiums for Constitutional officers, finance directors, and regional jails to local governments, at a cost of \$1.7 million.

* It contains several reductions to local registrar offices by reducing state support for electoral board registrar salaries (\$233,000) and eliminating printing and distribution of some election materials to localities (\$37,000).

* The budget provides \$2.2 million (matched by federal funds) to add 150 new waiver slots for individuals with developmental disabilities. These will be the first new slots added in four years and should reduce the waiting list by 14%.

* The budget restores \$225,000 in FY12 for the Virginia Early Childhood Foundation to bring funding back to the initial allocation of \$1.5 million.

APPROVED LEGISLATION

Local Legislative Initiatives

The General Assembly approved a handful of measures submitted by the region's legislators at the request of TJPD localities:

HB 1872 (*Toscano*) and **SB 1231** (*Deeds*) allow the City of Charlottesville to require public infrastructure maintenance bonds from developers and property owners in conjunction with the construction of single-family and two-family homes, and that are necessary to maintain and repair publicly owned streets, sidewalks and infrastructure.

HB 2078 (*Landes*) and **SB 1092** (*Hanger*) clarify and simplify the procedural requirements for creating and adding land to an Agricultural and Forestal District.

SB 1302 (*Ruff*) allows a local governing body member, in the case of a special meeting, to receive notification of the meeting by e-mail or fax.

Following are highlights of approved legislation in the areas of the environment, finance, human services, land use and growth management, local government, public safety and transportation. Approved studies and resolutions also are summarized.

Chesapeake Bay Total Maximum Daily Load (TMDL)/Environment

HB 1621 (*Knight*) and **SB 1104** (*Hanger*) expand the definition of open-space land in the Open-Space Land Act to include agricultural and forestal lands used for food and other agricultural/forestal production.

HB 1626 (*Knight*) allows homeowners to upgrade voluntarily to onsite or alternative discharging sewage systems.

HB 1725 (*Knight*) and **SB 1105** (*Hanger*) create the Virginia Farmland Preservation Fund, to consist of any funds appropriated by the General Assembly solely for preserving farmland.

HB 1737 (*Bulova*) clarifies laws and makes technical changes regarding local authority to regulate stormwater.

HB 1739 (*Bulova*) gives the operators of a permitted municipal separate storm sewer facilities (MS4) the right of entry to inspect properties that discharge into their facilities.

HB 1829 (*E.T. Scott*) and **SB 1412** (*Martin*) increase voting membership on the Soil and Water Conservation Board by adding three at-large members, who must be knowledgeable of stormwater management and a representative of business and local government interests; the bill also changes voting privileges of the DCR Director to nonvoting, ex officio.

HB 1830 (*E.T. Scott*) stipulates requirements of a resource management plan for agricultural landowners, to include BMP sufficient to implement the WIP and other local TMDL requirements. Landowners who implement and maintain such a plan are deemed in compliance with applicable state water quality requirements.

HB 1831 (*E.T. Scott*) and **SB 1055** (*Stuart*) regulate the application of fertilizers to lawns and turf, specifically banning lawn maintenance fertilizers containing phosphorus, effective December 31, 2013. The bills include fertilizer labeling requirements, a consumer education component, and direct a study of slow-release nitrogen in fertilizers. Local employees who apply regulated fertilizers to nonagricultural lands will need to be certified. Golf courses must have nutrient management plans by 2017.

HB 2057 (*Poindexter*) and **SB 990** (*Stuart*) expand Virginia Department of Agriculture and Consumer Services responsibility for regulating fertilizers in the areas of labeling guidelines; product registration; contractor/applicator certification; and requiring fertilizer distributors to submit annual statistical reports.

HB 2486 (*J.A. Cox*) and **SB 1441** (*Obenshain*) require the plan developed and implemented to restore impaired waters be controlling unless it is amended or withdrawn by the State Water Control Board.

SB 1007 (*Watkins*) establishes the same fee structure for sanitary landfills, noncaptive industrial landfills, and construction and demolition debris landfills. The fees will be adjusted annually based on inflation. The annual fee also is increased for other types of facilities such as composting, regulated medical waste, transfer stations, etc. The bill requires DEQ to continue efforts to improve its solid waste program and report to the General Assembly by December.

SB 1099 (*Hanger*) establishes priorities permit issuing authorities must use when considering off-site phosphorous control options for stormwater permits and provides conditions under which use of an off-site option can be granted.

SB 1100 (*Hanger*) creates the Nutrient Offset Fund as a subfund of the WQIF for purchase of nutrient reductions certified under the Chesapeake Bay Watershed Nutrient Credit Exchange Program, with priority to be given to nutrient offsets produced from facilities that generate electricity from animal waste.

SB 1427 (*Hanger*) requires the Secretary of Natural Resources, in developing written guidelines for awarding grants from the WQIF, to develop guidelines that define criteria and financial incentives for water reuse.

Finance

HB 1425 (*Albo*) reduces the period of delinquency from six months to three months before which private collection agents may be used to collect delinquent local taxes, and removes the exclusion of real estate taxes from the local taxes a treasurer may refer to such agents for collection.

HB 1437 (*Cole*) allows localities to decide whether to impose the BPOL tax on a business's gross receipts or its Virginia taxable income.

HB 1526 (*Greason*) clarifies that income and expense statements may be used in a complaint before a Board of Equalization (BOE) if they are submitted by the Board's appeal filing deadline.

HB 1588 (*Iaquinto*) and **SB 1350** (*Norment*) specify that the burden of proof is on a taxpayer, when he appeals a real property assessment to a BOE or circuit court, to show by a preponderance of the evidence that the property in question is valued at more than fair-market value or the assessment is not applied uniformly. The bill includes requirements on assessors to provide certain notice and to furnish certain information in appeals of assessments.

HB 1794 (*Tata*) authorizes the Virginia Retirement System (VRS) to collect overpayments made to a member or beneficiary from employers, if they are responsible for increasing a retiree's average final compensation or causing in-service distributions to a retiree. Presently, the VRS has no authority to recover such overpayments from an employer.

HB 1822 (*Peace*) and **SB 999** (*Stosch*) create as a separate class of property, for machinery and tools designed and used directly in manufacturing materials and equipment for national defense, for rate purposes. It also authorizes local governing bodies to create one or more defense production zones, inside which localities would be permitted to grant tax incentives and provide regulatory flexibility for up to 20 years.

HB 1837 (*Garrett*) creates an income tax credit for licensed farm wineries equal to 25% of the cost of certain winery equipment and materials.

HB 1851 (*Stolle*) and **SB 860** (*Wagner*) create as a separate class of property, for a building maintained in such a condition that it retains characteristics for which it was listed on the Virginia Landmarks Registry, for rate purposes.

HB 1942 (*Pollard*) exempts agricultural produce or eggs from the sales and use tax when sold in farmers markets and at roadside stands, when annual income from such sales does not exceed \$1,000. It also exempts from the litter tax individuals who raise and sell such items.

HB 2019 (*May*) and **SB 909** (*Herring*) allow a county treasurer and the treasurer of any town located partially or totally within such county to enter into a reciprocal agreement, with approval

of the respective governing bodies, granting each treasurer the authority to collect the other's local real and personal property taxes.

HB 2038 (*Peace*) and **SB 1085** (*Hanger*) direct the Tax Commissioner to convene a working group to review current policies on i) appeals of penalties related to the cigarette tax assessed on wholesalers and retailers; ii) the desirability of having a single stamp for state and local taxes; and iii) methods of determining the validity of partially visible cigarette tax stamps.

HB 2075 (*Ingram*) and **SB 1352** (*Norment*) allow local governments to enter into conduit lending agreements to finance certain structural projects identified in the capital improvement program.

HB 2142 (*Johnson*) authorizes localities to increase the fee for passing a bad check to the locality from \$35 to \$50.

HB 2155 (*Cline*) and **SB 844** (*Peterson*) authorize local governments to publish aggregated information relating to warrants paid for the locality by the local treasurer, as classified by expenditure item, recipient, date or disbursement.

HB 2183 (*Cline*) and **SB 1226** (*Peterson*) authorize local commissioners of the revenue to choose to allow dealers seeking to register for retail sales and use tax purposes, and out-of-state contractors subject to Virginia's special use tax, the option of registering with the local commissioner of the revenue, rather than with the state Tax Commissioner.

SB 1271 (*Houck*) requires the Auditor of Public Accounts to annually review sales and use tax collection and distribution, with a focus on 1) state Tax Department policies and procedures used in collecting the tax; 2) local procedures used to identify entities that have not paid and how the Tax Department could work with local officials to enhance collections; and 3) evaluation of how the Tax Department identifies the proper locality for distribution and how to coordinate with localities to enhance collections and accuracy of distribution.

SB 1408 (*Ruff*) allows localities to exempt from the BPOL tax businesses that lose money and are unprofitable during the taxable year, for tax years beginning on or after January 1, 2012.

Human Services

HB 1679 (*D. Bell*) and **SB 1171** (*Marsden*) authorize the State Executive Council for CSA to deny funding to a locality if services are not provided in compliance with applicable state law or policy or federal law. The Council is charged with developing policies to implement the provisions of this bill, which are applicable to services provided after July 1, 2011. These bills contained an emergency clause and took effect March 23.

HB 1767 (*Crockett-Stark*) and **SB 1040** (*Barker*) provide that background checks on adult household members residing in a home with a person with whom local social services is considering placing a child on an emergency, temporary, or permanent basis shall be mandatory.

HB 2037 (*Peace*) makes it unlawful for persons not licensed by the Board of Social Work to use the title "social worker," unless also using clarifying initials that signify receiving a baccalaureate or master's degree in social work. Social services agencies are not required to hire licensed social workers or social workers with such degrees. The bill takes effect July, 2013.

HB 2217 (*Stolle*) and **SB 1276** (*Ruff*) eliminate the statutory requirement that localities establish local disability services boards and their authority to establish local rehabilitative services incentive funds (the state fund also is eliminated). The approved budget, however, contains language that authorizes localities to establish a local disability services board.

HB 2376 (*Habeeb*) directs the Department of Social Services to eliminate its mandate on local departments of social services related to office space and facility requirements.

HB 2533 (*M.K. Cox*) and **SB 1486** (*Northam*) require that the Behavioral Health and Developmental Services Trust Fund be used for behavioral health and developmental services and to facilitate transition from state training centers to community-based services.

SB 1038 (*Barker*) allows a child placed in foster care to remain at his original school, if it is determined in writing by the placing social services agency and local school division, to be in his best interests.

Land Use

HB 1844 (*Athey*) provides that notice must be given to a property owner when a zoning administrator's decision is requested by another party.

HB 1931 (*D. W. Marshall*) and **SB 783** (*Watkins*) prohibit localities from imposing more stringent land use requirements on cluster development than it otherwise would be subject to under applicable land use ordinances. A locality also may not prohibit extension of water or sewer from an adjacent property to a cluster development, provided the cluster development is located within an area designated for water and sewer service.

HB 1965 (*Rust*) adds "life cycle costs" to the facilities estimates prepared as part of the comprehensive plan.

HB 2161 (*Iaquinto*) and **SB 1436** (*Smith*) provide that if a condemnor, including a local government, is required to provide an appraisal to the owner of a property sought to be condemned, the condemnor must provide copies of all appraisals obtained prior to making an offer to acquire or initiating negotiations for the property. The bill also revises the procedure for offering to sell condemned property back to the former owner to clarify when such an offer is required to be made and how such an offer is communicated to the former owner.

HB 2411 (*Lingamfelter*) allows localities to waive or modify existing performance bonds or other financial guarantees of completion that are required of developers.

HB 2472 (*Poindexter*) limits performance guarantees by developers to the items on approved plans for which such guarantees are applicable.

SB 873 (*Stuart*) allows localities to include in their subdivision ordinances provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of beneficiaries of a trust, of land held in trust.

SB 1204 (*Obenshain*) provides that the court may award costs for any party that successfully prevails in a contested action involving a conflict with current state law provisions that require cash proffer collection at the time of certificate of occupancy.

SB 1339 (*Puller*) allows localities to use population projections prepared by a Metropolitan Planning Organization (MPO) in designating an urban development area.

Local Government

HB 1470 (*Greason*) permits the circuit court, upon request of a local governing body, to appoint alternate members to a BOE to serve if a member is absent or abstains from voting.

HB 1495 (*O. Ware*) and **SB 1064** (*Edwards*) authorize certain authorities created by a local governing body to file a general erosion and sediment control plan annually with the Virginia Soil and Water Conservation Board, which may charge fees to cover certain processing costs.

HB 1521 (*Landes*) specifies that water and sewer authorities, sewage disposal authorities, stormwater control authorities, and refuse collection and disposal authorities are political subdivisions of the Commonwealth.

HB 1580 (*Dance*) authorizes a locality to allow 1) any of its paid or volunteer firefighters with 10 to 20 years of service to purchase, at fair market value, the helmet or boots issued to the firefighter; and 2) those with over 20 years of service to purchase their helmet or boots for \$1.

HB 1609 (*Orrock*) adds MPOs and planning district commissions to the definition of "public body" as used in the Virginia Public Procurement Act.

HB 1702 (*Lewis*) provides that failure of a member of a local governing body or elected school board to take the oath of office before attending the first meeting of such body after his election will not create a vacancy in his office if he takes the oath within 30 days after that first meeting.

HB 1940 (*Pollard*) allows localities to adopt ordinances exempting nonprofit organizations selling food at fund-raisers from restaurant regulations.

HB 1963 (*Rust*) authorizes localities to develop a resident curator program for the purpose of managing, preserving, maintaining or operating historic areas owned or leased by the locality.

HB 2004 (*LeMunyon*) provides that the public notice issued prior to a public hearing held by a local governing body in conjunction with the issuance of bonds, shall state the proposed use of the proceeds, and if there is more than one use, state the proposed uses for which more than 10% of the bond proceeds is expected to be used. A similar notice is to be provided to voters prior to a referendum involving a bond issuance.

HB 2149 (*Cline*) eliminates the requirement that local governments submit to the state a list of all local officers and constitutional officers.

HB 2319 (*Byron*) and **SB 1382** (*Stanley*) change the assessment process for mandates imposed on local governments to require an estimate of the fiscal impact on localities and an explanation of why the mandate should not be eliminated.

HB 2339 (*Garrett*) provides an alternative method for local governments to give notice by mail; notice may be given by regular mail when two or more notices are required for the same action, the first notice is required to be sent by certified or registered mail, and at least one notice has previously been sent by certified or registered mail.

HB 2408 (*R.L. Ware*) requires notice of certain state capital projects involving new construction costing at least \$500,000 to be sent to localities by registered mail prior to the project's planning phase.

HB 2425 (*Ingram*) and **SB 1216** (*Smith*) provide that a locality or service authority, prior to recording a lien on a property for nonpayment of fees and charges by a former tenant, shall provide a property owner 30 days to pay the amount due. Unless such a lien has been recorded, a locality or authority cannot deny service to a new tenant based on the previous nonpayment.

SB 862 (*Wagner*) specifies components of any local ordinance on renewable energy facilities that generate electricity from wind or solar resources.

SB 1452 (*Newman*) directs the Commission on Local Government to assist a five-member task force appointed by the Governor to review state mandates imposed on localities and to recommend temporary suspension or permanent repeal of such mandates.

Public Safety

HB 1757 (*Wilt*) and **SB 1199** (*Obenshain*) expand the Address Confidentiality Program for victims of domestic violence from a pilot program (of which Albemarle and Charlottesville were part) to all jurisdictions in the state.

HB 2036 (*Peace*) and **SB 1170** (*Marsden*) change the time during which the court services unit shall consult with local social services concerning return of a person released from juvenile commitment to a locality from four weeks to 90 days prior to the date the person is released; also, during that time, the court services unit and local social services shall collaborate to develop a plan to prepare the person for successful transition to the community.

HB 2213 (*McQuinn*) directs the Department of Criminal Justice Services (DCJS) to establish training standards and a model policy for law-enforcement personnel assigned to vehicle patrol duties which embody best practices for pursuits and responding to emergency calls. **SB 944** (*Howell*) includes these provisions, plus direction to DCJS to develop standards and a model policy for law-enforcement personnel involved in criminal investigations that embody current best practices for conducting photographic and live lineups.

HB 2284 (*James*) and **SB 777** (*Lucas*) allow a locality with an ordinance that authorizes a processing fee on individuals admitted to jail following conviction, to divide such fees proportionately between the police department and sheriff's department, if costs are incurred by the police department for booking or fingerprinting services; currently, the fee may go only to sheriff's offices and regional jails.

HB 2364 (*Peace*) provides that a locality may authorize its chief administrative officer to arrange for provision of aid to other localities or receipt of aid from other localities, including approval by the chief administrator of agreements with other localities, subject to availability of resources. Any local ordinance or resolution may include terms and conditions for participation in such aid and shall set forth the scope of the chief administrator's authority.

SB 757 (*Reynolds*) prohibits a locality from adopting an ordinance that prohibits the shooting of pneumatic guns on private property, with permission of the owner of the property, if reasonable care is taken to prevent a projectile from crossing the bounds of the property. The bill also invalidates any existing local ordinances that conflict with the provisions of the act.

SB 1287 (*McWaters*) provides that a sheriff or jail superintendent may seek payment from the body responsible for the fiscal management of a regional jail for the cost of food, clothing and medicines for inmates; such body shall be responsible for the payment of such costs.

Transportation

HB 1726 (*Carrico*) clarifies that the state's responsibility for posting restricted vertical clearance signs applies only to bridges on roads under state jurisdiction, and that localities are responsible for placing signs for restricted vertical clearances on roads it maintains.

HB 1758 (*Wilt*) makes changes to provisions relating to the administration of local roads, to include those relating to the emergency paving of unpaved secondary roads.

HB 1825 (*Oder*) and **SB 1005** (*Watkins*) change the name of the Commonwealth Transportation Commissioner to Commissioner of Highways. They also 1) eliminate the requirement that the Commissioner employ an assistant commissioner for the environment, transportation planning, and regulatory affairs; 2) allow the Commissioner to transfer, abandon and discontinue roads, or move roads from one system to another, when such actions are recommended in connection with a construction or maintenance project; and 3) eliminate the requirement that the CTB must declare excess right-of-way surplus before VDOT may sell the land.

HB 1957 (*Rust*) and **SB 1135** (*Wagner*) make various changes to the powers and duties of the CTB, including 1) clarifying that local roads in counties outside the state secondary highway system are local roads and not part of the state system; 2) eliminating CTB responsibility to regulate outdoor theaters; and 3) providing for updates of the Statewide Transportation Plan every four years (instead of five).

HB 2022 (*May*) directs DMV to develop a tiered schedule of fees for overweight vehicles, taking into consideration VDOT research on the cost impact of damage to Virginia's highways from overweight vehicles, the administrative feasibility of such fee structure, and the impact of such fees on the state's economic competitiveness; recommendations are to be presented to the Joint Commission on Transportation Accountability by mid-December.

HB 2233 (*Anderson*) and **SB 1004** (*Watkins*) exempt VDOT and the Department of Rail and Public Transportation from paying any fee for remote access to land records; provide for VDOT to recommend to CTB an annual rate to be used by VDOT to make payments for maintenance; and delete references to the statewide maintenance cost index, the base lane per mile rate, and fund allocation. The bills also ensure that payback provisions specified in Code are available to VDOT if a locality chooses to cancel a project after approval of the location and design.

HB 2379 (*Pogge*) provides that when a secondary highway is discontinued, it shall continue to be available for public use as a road, unless it has been abandoned or its use modified by a local ordinance.

HB 2527 (*W.J. Howell*) and **SB 1446** (*Wampler*) are the omnibus transportation bills that contain the following provisions:

1) They revise the revenue sharing program by a) providing for a \$15 million floor and \$200 million cap on funding; b) eliminating the current "tiered" system of awarding funds; and c) increasing the cap on the award for a specific project from \$1 million to \$10 million.

- 2) They create the Virginia Transportation Infrastructure Bank primarily for loaning money for transportation projects, but allowing governmental entities (which include a locality; a local, regional, state, or federal entity; or a planning district commission) to apply for grants (20% of funds).
- 3) They authorize the issuance of new bonds (at least \$1.1 billion) to be repaid with future federal highway funds and credits earned by the state from collections on toll roads; and accelerate the sale of bonds from the 2007 Virginia Transportation Act to a maximum of \$500 million in FY12 and \$600 million in FY13 (current maximum is \$300 million per year).
- 4) They establish an Intercity Passenger Rail Operating and Capital Fund.

SB 1112 (*Y.B. Miller*) outlines transportation planning duties and responsibilities of MPOs in accordance with federal law, while directing state transportation agencies to implement a decision-making process that provides MPOs better opportunity for input into decisions impacting transportation systems within their areas.

SB 1206 (*Obenshain*) provides that no traffic impact analysis (TIA) is required to accompany a plat or plan if the project is permitted by-right under the local subdivision ordinance.

SB 1221 (*Barker*) provides for a more limited VDOT review when a property being considered for rezoning has already been subject to a TIA in connection with local comp plan development

SB 1462 (*Puckett*) requires a VDOT review (by November) of previously adopted regulations concerning traffic impact analyses, secondary street acceptance standards and access management standards (as they relate to family subdivisions).

Miscellaneous

HB 1399 (*Janis*) provides an explicit waiver of sovereign immunity so that a local or state employee can create a cause of action against his employer if an adverse action is taken against the employee because he has opposed any practice by his employer prohibited by the Virginia Fraud Against Taxpayers Act or participated in an investigation, action or hearing under the Act.

HB 1457 (*R.G. Marshall*) doubles the civil penalties imposed for willful and knowing FOIA violations.

HB 1464 (*Wright*) provides that in the disposition of unclaimed bodies, if a claimant cannot pay reasonable disposition expenses, they shall be borne by the locality where the claimant resides.

HB 1508 (*Cole*) prohibits appointment of a local electoral board member who is the spouse or other relative of a candidate for or holder of an office within the board's jurisdiction. The bill takes effect January 1, 2012.

HB 1554 (*Wilt*) and **SB 810** (*Obenshain*) delay implementation of any statutes or regulations prescribing additional requirements for graduation or accreditation of schools until July 1, 2012; however, a financial literacy course requirement shall move forward next school year.

HB 1584 (*Oder*) and **SB 1195** (*Obenshain*) amend the definition of "illegal gambling" to clarify that the purchase of a product, Internet access, or other thing which credits the purchaser with free points or other measurable units that may be risked by the purchaser for a chance to win money, is deemed consideration for the purposes of illegal gambling.

HB 1592 (*Iaquinto*) encourages local public bodies to put requests for proposals and invitations to bid on the Department of General Services' website (state government entities are required to do so under the bill).

HB 1595 (*Iaquinto*) increases the threshold from \$30,000 to \$50,000 for local public bodies procuring professional services.

HB 1610 (*Oder*) and **SB 942** (*J.C. Miller*) allow an assessing official to reassess residential property to account for a confirmed presence of defective Chinese drywall. Local governments may designate the property as a rehabilitation district in order to grant the owner a partial real estate tax exemption.

HB 1611 (*Oder*) stipulates that any locality that requires smoke detectors to be present in multifamily dwellings, hotels, motels and rooming houses, must follow a uniform set of standards for maintenance of smoke detectors established in the Uniform Statewide Building Code.

HB 1645 (*O'Bannon*) and **SB 987** (*Puller*) codify the Constitutional amendment adopted by voters in November that provides a real property tax exemption for veterans (or widow or widower of a veteran) with a 100% service-related disability (effective for tax years beginning on or after January 1, 2011).

HB 1860 (*Anderson*) and **SB 763** (*Puller*) require that the party against whom a FOIA petition is brought must receive a copy of the petition at least three working days prior to its filing.

HB 2080 (*Landes*) and **SB 1340** (*Puller*) allow, until June 30, 2012, the purchase of direct recording electronic (DRE) machines from any source to meet legal requirements for accessible voting equipment; current law requires purchases from existing DRE inventories within the state.

HB 2093 (*S.C. Jones*) prohibits a constitutional officer, during the first year after ending his public service, from representing any person or group, for compensation, on any matter before the agency of which he was an officer. The bill specifically exempts commonwealth attorneys.

HB 2143 (*Johnson*) provides that when property is civilly seized for forfeiture (in drug and certain other cases), notice of the seizure is provided to the treasurer of the locality in which seized property is located.

HB 2167 (*Abbitt*) authorizes DCR to negotiate a land exchange of a part of 1,191 acres for receipt of 36 acres in Albemarle County's Biscuit Run, in order to provide the Department with a site for a state park that is less encumbered with private uses that may be detrimental to operations.

HB 2176 (*Phillips*) and **SB 1017** (*Puckett*) require the Board of Game and Inland Fisheries, before acquiring and introducing any new species of game birds, animals or fish in a locality, to obtain approval and cooperation of the local government where the introduction occurs.

HB 2278 (*Keam*) and **SB 1073** (*Barker*) codify the Constitutional amendment adopted by voters in November that provides authority for local governments to establish their own income or financial worth limitations for purposes of granting property tax relief for homeowners who are 65 years of age or older, or permanently and totally disabled (effective for tax years beginning on or after January 1, 2011).

HB 2389 (*Pollard*) authorizes renewable energy projects, including solar, wind, biomass, waste-to-energy and geothermal, as projects which the Virginia Resources Authority may finance.

SB 952 (*Houck*) names six bridges near Lake Anna in Louisa and Spotsylvania counties.

SB 1036 (*Barker*) allows, with prior authorization from the Board of Elections, localities to modify their DRE machines to meet legal requirements to provide accessible voting equipment.

SB 1107 (*Hanger*) encourages local public bodies to use the Department of General Services' central electronic procurement website (state agencies are required to do so under the bill).

SB 1156 (*Quayle*) allows general registrars, their employees and electoral board members to be exempt from jury duty during a period from 90 days preceding any election through 10 days following certification by the local electoral board of election results.

SB 1308 (*Ruff*) allows residents of towns with a population of more than 1,000 to vote on a referendum for the sale of mixed beverages within the county in which those towns are located.

SB 1483 (*Vogel*) places limits on the authority of state and local governments over certain charitable organizations.

Constitutional Amendment

HJR 693 (*Joannou*) proposes to amend the Constitution to enhance the damages payable in condemnation cases to allow new damages to be awarded for a property's "lost profits and lost access," with those terms to be defined by the General Assembly. It must pass the General Assembly next year in exactly the same form to be on the November, 2012, ballot.

STUDIES AND RESOLUTIONS

House

HJR 570 (*M.K. Cox*) directs JLARC to study the costs and benefits to the state of providing financial and other incentives to localities that collaborate on capital facilities, construction projects and operating services (two-year study).

HJR 645 (*Poindexter*) requests the Secretary of Technology to study opportunities to facilitate cooperative procurement and sharing of custom technology applications to leverage buying power and create efficiencies for local government.

HJR 648 (*plum*) requests the Department of Housing and Community Development to study the feasibility and appropriateness of amendments to the Uniform Statewide Building Code to provide accessible routes for persons with disabilities into public and private buildings and facilities (two-year study).

Senate

SJR 297 (*Y.B. Miller*) requests the Department of Rail and Public Transportation to study transit programs, including the funding of such programs.

SJR 334 (*Whipple*) requests the Secretary of Natural Resources to study expansion of the Chesapeake Bay Watershed Nutrient Credit Exchange Program.

SJR 335 (*Whipple*) directs JLARC to study long-term dedicated funding sources for land conservation (two-year study).